



भारत का राजपत्र

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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दो जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the
22nd December, 1989:—

I

BILL No. III OF 1989

A Bill further to amend the Muslim Personal Law (Shariat) Application Act, 1937.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Muslim Personal Law (Shariat) Application (Amendment) Act, 1989.

Short title.

26 of 1937. 2. In Section 2 of the Muslim Personal Law (Shariat) Application Act, 1937, the brackets and words “(save questions relating to agricultural land)” shall be omitted.

Amend-
ment of
Section 2.

STATEMENT OF OBJECTS AND REASONS

Section 2 of the Muslim Personnal Law (*Shariat*) Application Act, 1937, excludes agricultural land, in cases where the parties are Muslims, from the application of the Muslim Personal Law (*Shariat*). For last several years, it has been the cherished desire of the Muslims, and particularly of the Jamiat-ulama-I Hind, one of the greatest Muslim religious and social welfare Body, that this Act should be made applicable to all matters concerning Muslims so far as practicable in the democratic set up of our country.

It is, therefore, proposed to amend section 2 of the aforesaid Act so as to bring the agricultural land also within the purview of the Act.

MAULANA ASAD MADNI

II

BILL NO. XVII OF 1989

A Bill further to amend the Kazis Act, 1980.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Kazis (Amendment) Act, 1989. Short title.

2. In the preamble to the Kazis Act, 1980 (hereinafter referred to as the principal Act), for the words “to appoint persons to the office of Kazi” the words “to appoint persons to the offices of Kazi-ul-Kuzaat and of Kazi” shall be substituted. Amendment of the Preamble.

3. In section 1 of the principal Act, for the second paragraph, the following paragraph shall be substituted, namely:—

“it extends to the whole of India.” Amendment of Section 1.

4. After section 1 of the principal Act, the following new section shall be inserted, namely:—

“1A. (1) Every State Government shall appoint a Kazi-ul-Kuzaat for a term of five years with his seat in the Capital of the State. Insertion of new section 1A.

(2) The Kazi-ul-Kuzaat shall decide the appeals filed against the judgements or orders passed by the Kazis of the State:

Provided that the appeal shall be filed within thirty days of the decision of the Kazi:

Provided further that the delay in filing the appeals may be condoned by the Kazi-ul-Kuzaat, if he is satisfied with the reasons submitted before him for such delay. Kazi-ul-Kuzaat to be appointed by the States.

(3) The Kazi-ul-Kuzaat shall have the power to pass injunction orders restraining the implementation of any order passed by the Kazi."

Substitution of section 2.

5. For section 2 of the principal Act, the following section shall be substituted, namely:—

Power to appoint Kazis for every district.

"2. (1) The State Government shall appoint a Kazi for each district in the State where considerable number of the Muhammadans reside.

(2) The names of the persons to be appointed to the office of Kazi shall be recommended by a Board of Muslim *Ulemas* of great eminence and renowned Muslim Scholars with the concurrence of Kazi-ul-Kazaat and such recommendation shall be binding upon the State Government.

(3) The Muslim Board shall be constituted after consulting the recognised Muslim organisations like Jamiat-ulema-Hind, Muslim Personal Law Board,

(4) Every Kazi shall be appointed for a term of five years:

Provided that a Kazi may resign his office before the completion of his term.

(5) Every Kazi shall make himself available at marriage celebrations and shall perform other ceremonies and rites and also decide the disputes between the parties who are Muslims."

Substitution of new section for section 3.

6. For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. The State Government may, if it thinks fit, appoint one or more Naib Kazis for each district of the State for a term of five years for exercising such duties, as may be prescribed."

Insertion of new sections 3A and 3B.

7. After section 3 of the principal Act, the following new section shall be inserted, namely:—

Fees to be paid to the Kazi by the parties.

"3A. The parties approaching the Kazi for the solemnisation of marriages or for other rites and ceremonies or for deciding their disputes shall pay fees to the Kazi at such rates as may be prescribed.

Power to make rules.

3B. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act."

Omission of section 4.

8. Section 4 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Under the Muslim Law, the Kazi was primarily the Chief Judicial Officer to be appointed by the State. The system more or less corresponded to our present system of Judges and Magistrates. In addition to Judicial functions, the Kazi used to perform certain other functions of religious nature.

Prior to the Act of 1880, there were regulations which provided for the appointment of Kazi-ul-Kuzaat also. In the course of time the judicial functions of the Kazi were abolished and his main function remained to preside over the marriage and divorce ceremonies.

It is, however, felt that the disputes regarding matrimonial differences, succession, guardianship and other such matters should be settled by the Kazi, where the parties to the disputes are Muslims.

Hence, this Bill.

MAULANA ASAD MADNI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill by way of inserting new section 3B in the principal Act provides that the Central Government may make rules for carrying out the purposes of this Act including prescribing the rates of fees to be paid to the Kazis, etc.

The delegation of legislative powers is of normal character.

SUDARSHAN AGARWAL,
Secretary-General.

